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AGILENT TECHNOLOGIES, INC.
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EXAMINER

THIER, MICHAEL

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/087,046
Filing Date: February 28, 2002
Appellant(s): FIUT ET AL.

Jody C. Bishop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/28/2006 appealing from the Office action mailed 6/21/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2001/0001268	Menon et al	5-2001
5,907,800	Johnson et al	5-1999
5,489,914	Breed	2-1996
4,823,280	Mailandt et al	4-1989
6,385,609	Barshefsky et al	5-2002
2002/0147936	Wiczer	10-2002
2005/0233759	Anvekar et al	10-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 12-13, 18, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800).

Consider claims 1-2, 12-13, 21-22. Menon teaches a method and system for monitoring a base station in a wireless communication network from a location remote to the base station, comprising acquiring at a monitoring probe arranged local to a base station measurement data for at least one network link parameter of the base station, measurement data for at least one wireless link parameter of the base station, and measurement data for at least one operational parameter of the base station (page 15, paragraphs [0224]-[0228]); and communicating the data from the monitoring probe to a processor-based device arranged remote from the base station (wireless access system 10 or 101, page 15, [0228]).

Menon does not clearly teach formatting the measurement data for the at least one network link parameter, the measurement data for the at least one wireless link parameter, and the measurement data for the at least one operational parameter into a uniform format; and communicating, in the uniform format, the data from the monitoring probe to a processor-based device arranged remote from the base station.

Johnson teaches formatting data from a variety of format into a uniform format (e.g. converting from CDR, CIBER and other formats to CCF format; column(s) 7, line(s) 1 through column(s) 8, line(s) 24) for the purpose of supporting more than one external data source (column(s) 7, line(s) 1 through column(s) 8, line(s) 24).

Consider claims 3, 18. Menon, page 33, claim 24 and page 34, claim 27 read on the limitations of claims 3, 18.

3. Claims 5-7, 9, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800) as applied to claims 1-3, 12-13, 18, 21-22 above, and further in view of Breed (5,489,914)

Consider claims 5-7, 9, 19. Menon in view of Johnson does not clearly teach antenna measurement comprises swept return loss measurement.

Breed teaches antenna measurement comprises swept return loss measurement (col. 6, ln. 65 to col. 7, ln. 18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Breed into the teachings of Menon in view of Johnson, so that multiple frequency operation is achieved without the use of reactive components or large structures.

4. Claims 8, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800) as applied to claims 1-3, 12-13, 18, 21-22 above, and further in view of Mailandt et al (4,823,280).

Consider claims 8, 20. Menon in view of Johnson does not teach the measurement comprising temperature, flooding, fire, alarm, power, etc.

Mailandt teaches the measurement comprising temperature, flooding, fire, alarm, power, etc. (abstract; col. 2, ln. 3-19; col. 13, ln. 15-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Mailandt into the teachings of Menon in view of Johnson in order to provide an improved system monitor to give accurate information continuously from which soft failures can be detected and repaired prior to actual system failure, thereby reducing system down time.

5. Claims 10-11, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800) as applied to claims 1-3, 12-13, 18, 21-22 above, and further in view of Barshefsky et al (6,385,609).

Consider claims 10-11, 16-17. Menon in view of Johnson does not teach using a user interface for accessing the measurement data received by the processing-based device.

Barshefsky teaches using a user interface for accessing the measurement data received by the processing-based device (figs. 1 and 3, col. 3, ln. 59-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Barshefsky into the teachings of Menon in view of Johnson in order to provide an improved system monitor to give accurate information continuously from which soft failures can be detected and repaired prior to actual system failure, thereby reducing system down time.

6. Claims 14-15, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800) as applied to claims 1-3, 12-13, 18, 21-22 above, and further in view of Wiczer (US2002/0147936A1).

Consider claims 14-15, 23-24. Menon in view of Johnson does not teach the use of Smart Transducer Interface Module (STIM), Network Capable Application Processor (NCAP) and IEEE 1451.X standards.

Wiczer teaches the use of Smart Transducer Interface Module (STIM), Network Capable Application Processor (NCAP) and IEEE 1451.X standards (abstract; page 1, [0003], [0013]-[0015]; page 2, [0023]-[0025]; page 2, [0028]; page 4, [0042]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Wiczer into the teachings of Menon in view of Johnson in order to provide an improved system monitor to give accurate information continuously from which soft failures can be detected and repaired prior to actual system failure, thereby reducing system down time.

7. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (US2001/0001268A1) in view of Johnson et al (5,907,800) as applied to claims 1, 12, 21 above, and further in view of Anvekar et al (US 2005/0233759).

Consider claims 25-27. Menon in view of Johnson does not teach that the uniform format is a mark-up language readable with a web browser.

Anvekar teaches that the uniform format is a mark-up language readable with a web browser (§ 0039, 0045 and 0077) for the purpose of (e.g., with XML, customized tags and other overlay data, are added to the raw SM contents to enable value addition functions to be performed efficiently) (page(s) 3, § 0045).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Anvekar into the teachings of Menon et al in view of Johnson for the purpose mentioned above.

Allowable Subject Matter

8. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(10) Response to Argument

Appellant argues, "Neither Menon nor Johnson teaches communicating data in a uniform format." (from pages 7 and 8 in the Appeal Brief)

In response to Appellants arguments, the examiner respectfully disagrees. The office action mailed 6/21/2006, showed that the primary reference, Menon, taught the idea that the data is communicated from the monitoring probe to a processor-based device arranged remote from the base station (see par 228, which explains that the measured data is reported to the wireless access system 10 or 100). However, the examiner asserted that the Menon reference did not clearly teach formatting the measurement data into a uniform format and communicating it. For this reason, the secondary reference Johnson was relied upon. The Johnson reference teaches the idea that "...the switch interface 111 translates CDR record into a format understandable to the system 107-the CCF format-..." (column 7 lines 31-34). This citation explains that the system 107 understands the CCF format. He then teaches, "The records received from an MSC or from a roamer tape 109 are translated into a form subsequently used by the system 107 by the interface 111." As clearly explained in column 7 lines 31-33 the form subsequently used by system 107, which is translated by the interface 111, was said to be the CCF format. Therefore meaning that both the records from the MSC and the roamer tape 109, are translated to a uniform format (the CCF format). Johnson also explains that after the data is translated into a format understandable to the system it is "passed" (which reads on communicated, since the definition of communicated can be understood as, to give to another, or to spread to others) to an analysis section,

analyzed and the results are “communicated” (which reads on the data of a uniform format being communicated) to the manager section 115 or the response system 121 (see column 7 lines 35-42). Therefore, the combination of Menon and Johnson clearly teach, “communicating data in a uniform format”, since Menon teaches the idea that the data is communicated from the monitoring probe to a processor-based device arranged remote from the base station, and Johnson teaches the idea that the measurement data is formatted into a uniform format (and as explained above, Johnson does in fact teach “communicating” the data in a uniform format).

Appellant further argues, “...one would not be motivated to modify Menon such that the base station 30 or 101 formats measurement data in a uniform format prior to reporting the measurement data to wireless access system 10, or 100, but rather would, in view of Johnson’s teaching, format the measurements received for base station 30, or 101 after they have been communicated.” (from the bottom of page 8 in the Appeal Brief)

In response to Appellants arguments, the examiner respectfully disagrees. One of ordinary skill in the art could have seen the advantages of using the base station as in Menon to format the measured data into a uniform format as in Johnson, and then communicating this data, so that the remote device would only have to receive one single format of information. This would allow the base station reading in the measurement data to format the data into a uniform format and send it out to a remote device. Since the remote device does not have to do the formatting of the data (since

the base station will do this as the measured data is taken in), it requires less hardware/software to implement this procedure at the remote device, making this an obvious motivation.

Appellant further argues, "Johnson does not teach or suggest formatting measurement data for at least one network link parameter, measurement data for at least one wireless link parameter, and measurement data for at least one operational parameter into uniform formats", (from the second half of page 9 in the Appeal Brief) and further explains "The formatting of data from CDR, and CIBER to CCF in Johnson does not teach or suggest formatting measurement data of the 3 types recited in claim 1 into a uniform format." (from pages 10 and 11 of the Appeal Brief)

In response to Appellants arguments, the examiner respectfully disagrees. The limitation being argued can be seen in the combination of the Menon and Johnson references. Menon teaches a method and system for monitoring a base station in a wireless communication network from a location remote to the base station, comprising acquiring at a monitoring probe arranged local to a base station, *measurement data for at least one network link parameter of the base station, measurement data for at least one wireless link parameter of the base station, and measurement data for at least one operational parameter of the base station* (page 15, paragraphs [0224]-[0228], taken from the final rejection mailed 6/21/2006). The Menon reference does not clearly teach formatting this data into a uniform format. However, the Johnson reference clearly

Art Unit: 2617

teaches formatting different types of measurement data into a uniform format, as explained earlier:

Johnson reference teaches the idea that "...the switch interface 111 translates CDR record into a format understandable to the system 107-the CCF format-..." (column 7 lines 31-34). This citation explains that the system 107 understands the CCF format. He then teaches, "The records received from an MSC or from a roamer tape 109 are translated into a form subsequently used by the system 107 by the interface 111." As clearly explained in column 7 lines 31-33 the form subsequently used by system 107, which is translated by the interface 111, was said to be the CCF format. Therefore meaning that both the records from the MSC and the roamer tape 109, are translated to a uniform format (the CCF format).

Therefore, the combination teaches formatting this measurement data into a uniform format, and not just the Johnson reference by itself. Johnson clearly shows formatting different formats of data into a uniform format (CIBER and CDR). The CIBER and CDR data types both read on measurement data (since they contain billing information which measures call usage), and since these 2 different measurement data are formatted into a uniform format in Johnson, then when combined with the teachings of Menon (explained above), the combination does in fact teach formatting different types of measurement data into a uniform format.

Appellant further argues, "Johnson does not teach or suggest "a monitoring probe arranged local to a base station operable to...format the acquired measurement data into a uniform format". (from page 11 of the Appeal Brief)

In response to Appellants arguments, the examiner respectfully disagrees. This limitation is seen in the combination of Menon and Johnson. Menon teaches the idea of a base station that can perform self-tests and provide information reports (par. 225-

226). In order to perform these self-tests, the base station must have some type of "monitoring probe" in order to take measurement collections (as seen in par. 227).

Then, when combined with the Johnson reference, which teaches the idea of formatting the different types of data into a uniform format (as explained earlier), the combination does in fact show this limitation.

Appellant further argues, "Finally, the Final Office Action has not provided sufficient motivation to combine Breed with Menon and Johnson, nor does such motivation exist."

In response to Appellants arguments, the examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation was explained to be "so that multiple frequency operation is achieved without the use of reactive components or large structures". The Appellant further argues that Breed does not tout this motivation as a reason to use swept return loss measurements. The examiner notes that the mere fact that Breed does not explain this motivation, as used by the examiner, as a motivation for doing the process does not mean the motivation is irrelevant. One of ordinary skill in the art could have been motivated to make the

Art Unit: 2617

combination based on several different motivations, which may be found in the Breed reference, whether or not Breed was to point out the specific motivation to them.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

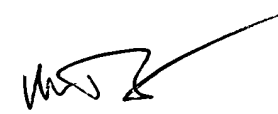
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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